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13. ABSTRACT (Maximum 200 Words) This Directive reissues DoD Directive 5500.17, dated January 23, 1985; implements the requirement established by the President that the Manual for Courts-Martial, United States be reviewed annually; formalizes the Joint Service Committee (JSC) and defines the roles, responsibilities, and procedures of the JSC in reviewing and proposing changes to the Manual for Courts-Martial, United States and proposing legislation to amend sections 800-946 of Title 10, United States Code; and is intended only to improve the internal management of the Federal Government. This Directive is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.			
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Department of Defense DIRECTIVE

DoDD-5500.17

May 8, 1996
NUMBER 5500.17

GC, DoD

SUBJECT: Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice

- References:
- (a) DoD Directive 5500.17, "Review of the Manual for Courts-Martial," January 23, 1985 (hereby canceled)
 - (b) Manual for Courts-Martial, United States
 - (c) Sections 800-946 of title 10, United States Code, Uniform Code of Military Justice
 - (d) Office of Management and Budget Circular A-19, "Legislative Coordination and Clearance," September 20, 1979
 - (e) DoD Directive 5105.18, "DoD Committee Management Program," January 18, 1990
 - (f) DoD Directive 5500.1, "Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and Comments Thereon," May 21, 1964

A. REISSUANCE AND PURPOSE

This Directive:

1. Reissues reference (a).
2. Implements the requirement established by the President that reference (b) be reviewed annually.
3. Formalizes the JSC and defines the roles, responsibilities, and procedures of the JSC in reviewing and proposing changes to reference (b) and proposing legislation to amend reference (c).
4. Is intended only to improve the internal management of the Federal Government; it is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Service of the Department of the Navy) and, by agreement with the Chief Counsel, U.S. Coast Guard, to the Coast Guard (when it is operating as a Service of the Department of Transportation).

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C. POLICY

To assist the President in fulfilling his responsibilities under the Uniform Code of Military Justice (reference (c)), it is DoD policy to review the Manual for Courts-Martial (reference (b)) annually, and to propose legislation amending reference (c) to ensure both fulfill their fundamental purposes as a comprehensive body of law and procedure. The role of the JSC is to further this DoD policy. Under the direction of the General Counsel of the Department of Defense (GC, DoD), the JSC is responsible for reviewing reference (b) and proposing amendments to references (b) and (c).

D. RESPONSIBILITIES

1. The General Counsel of the Department of Defense shall:

a. Administer this Directive, to include coordination on and approval of proposed changes to reference (c), approval of the annual review of reference (b), and coordination of any proposed changes to reference (b) under OMB Circular A-19 (reference (d)).

b. Designate a Military Service as the Executive Agent for the JSC. The Executive Agent shall act on behalf of the JSC in coordinating correspondence and processing changes to references (b) and (c) within the Department of Defense and other Federal Agencies.

2. The Secretaries of the Military Departments shall ensure that Judge Advocates General of the Military Departments; the Staff Judge Advocate to the Commandant of the Marine Corps; and the Chief Counsel, United States Coast Guard, shall appoint representatives to the JSC.

E. EFFECTIVE DATE

This Directive is effective immediately.



John P. White
Deputy Secretary of Defense

Enclosures - 2

1. Composition and Role of the JSC
2. Guidance to the JSC

COMPOSITION AND ROLE OF THE JSC

A. Composition of the JSC

The JSC consists of one representative of each of the following: the Judge Advocate General of the Army; the Judge Advocate General of the Navy; the Judge Advocate General of the Air Force; the Staff Judge Advocate to the Commandant of the Marine Corps; and the Chief Counsel, United States Coast Guard. In addition, the United States Court of Appeals for the Armed Forces (USCAAF) and the Office of General Counsel of the Department of Defense shall each be invited to provide a staff member to serve in a non-voting capacity with the JSC. The JSC chairmanship rotates biennially among the Services. An executive secretary for the JSC will be provided by the chairman's service.

B. Role of the JSC

The role of the JSC is to further the DoD policy established in section C. of the main body of this Directive, above. The GC, DoD, also may direct the JSC to study issues or perform other duties related to the administration of military justice. (See DoD Directive 5105.18 (reference (e)).)

GUIDANCE TO THE JSC

A. Review of the Manual for Courts-Martial (Reference (b))

1. The JSC shall conduct an annual review of reference (b), in light of judicial and legislative developments in civilian and military practice, to:

a. Ensure reference (b) applies the principles of law and the rules of evidence generally recognized in the trial of criminal cases in United States district courts to the extent practicable and to the extent that such principles and rules are not contrary to, or inconsistent with, the UCMJ (reference (c)). This includes the requirement that reference (b) must be workable across the spectrum of circumstances in which courts-martial are conducted, including combat conditions; and,

b. Ensure reference (b) reflects current military practice and judicial precedent.

2. During this review, any JSC voting member may propose an amendment to reference (b), which ordinarily will be referred to the JSC Working Group (WG) for study. The WG consists of non-voting representatives from each of the Services and the USCAAF. The WG assists the JSC voting members in fulfilling their responsibilities under this Directive. Any proposed amendment to reference (b), if approved by a majority of the JSC voting members, becomes a part of the annual review.

3. The JSC shall prepare a draft of the annual review of reference (b), and forward it to the GC, DoD, for action not later than the 1st of May of each year. A copy of the report shall be sent to the CODE COMMITTEE, established by reference (c), which may submit comments on the draft review to the GC, DoD.

4. The draft review shall set forth any specific recommendations for changes to reference (b), to include a concise statement of the basis and purpose of any proposed change. If no changes are recommended, the draft review shall so state. If changes to reference (b) are recommended by the JSC, the public notice procedures of subsection D.3., below, are applicable.

B. Changes to Reference (b)

Changes to reference (b) shall be proposed as part of the annual review conducted under paragraphs A.1.a. and b. of this enclosure above. When earlier implementation is required, the JSC may send proposed changes to the GC, DoD, for coordination under DoD Directive 5500.1 (reference (f)).

C. Proposals to Amend the UCMJ (Reference (c))

The JSC may determine that the efficient administration of military justice within the Armed Services requires amendments to reference (c), or that a desired amendment to the Manual for

Courts-Martial (reference (b)) makes necessary an amendment to reference (c). In such cases, the JSC shall forward to the GC, DoD, a legislative proposal to change reference (c). The GC, DoD, may direct the JSC to forward any such legislative proposal to the CODE COMMITTEE.

D. Public Notice and Meeting

1. Proposals to amend reference (c) are not governed by the procedures set out in this section. (See DoD Directive 5500.1 (reference (f)).) Rather, this section applies only to the JSC's annual review of reference (b).

2. It is DoD policy to encourage public participation in the JSC's review of reference (b). Notice that the Department of Defense, through the JSC, intends to propose changes to reference (b) shall be published in the FEDERAL REGISTER before submission of such changes to the President. This notice is not required when the Secretary of Defense proposes that the President issue the change without such notice on the basis that public notice procedures, as set forth in this Directive, are unnecessary or contrary to the sound administration of justice. The full text of the proposed changes, including analysis and discussion, shall be published, unless the GC, DoD, or the JSC determines that such publication in full would unduly burden the FEDERAL REGISTER. Notice shall also be disseminated through other means to the public to the greatest extent practicable.

3. The JSC shall coordinate with the Office of GC, DoD, as to the timing and content of such notices under this section.

4. A notice under this section shall include a brief description of the matters contained in the proposed change, the time and place where a copy of the proposed change may be examined, and the procedure for obtaining a copy of the proposed change.

5. A period of not fewer than 75 days after publication of notice shall be allowed for public comment, but a shorter period may be prescribed when the GC, DoD, or the JSC determines that a 75-day period is unnecessary or contrary to the sound administration of military justice. Comments shall be submitted to the Executive Secretary of the JSC.

6. The JSC shall hold a public meeting during the public comment period, where interested persons will be given an opportunity to submit views on any of the proposed changes contained in the annual review. The JSC shall consider all views presented at the public meeting and written comments submitted during the 75-day period in determining the final form of any proposed amendments to reference (b).

E. Internal Rules and Record-Keeping

1. In furthering DoD policy, studying issues, or performing other duties relating to the administration of military justice, the JSC may establish internal rules governing its operation.

2. The JSC shall create a file system and maintain appropriate JSC records.